

VERNON CASTLE BROWN, JR.,)
)
 Petitioner,) Case No. CV 15-2316-CAS(AJW)
)
 v.)
)
 TIM V. VARGA,) MEMORANDUM AND ORDER
) DISMISSING PETITION
)
 Respondent.)
)

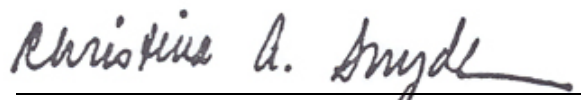
¹ Case Nos. CV 04-4250-R(AJW), CV 11-4338-CAS(AJW), CV 11-4691-CAS(AJW), CV 11-7476-CAS(AJW), CV 11-7997-CAS(AJW), CV 12-4039-CAS(AJW), CV 12-5230-CAS(AJW), CV 14-9017-CAS(AJW), CV 15-268-CAS(AJW).

1 A federal court must dismiss a successive petition that raises
2 the same grounds for relief as a prior petition. 28 U.S.C. §
3 2244(b)(1). A federal court must also dismiss a successive petition
4 raising a new ground for relief unless the petitioner can show that
5 (1) the claim rests on a new, retroactive, constitutional right or (2)
6 the factual basis of the claim was not previously discoverable through
7 due diligence, and those new facts establish by clear and convincing
8 evidence that but for the constitutional error, no reasonable
9 factfinder would have found the applicant guilty of the underlying
10 offense. 28 U.S.C. § 2244(b)(2)(A)-(B). It is not the district court,
11 however, that decides whether a successive petition may proceed.
12 Rather, "[b]efore a second or successive application permitted by this
13 section is filed in the district court, the applicant shall move in
14 the appropriate court of appeals for an order authorizing the district
15 court to consider the application." 28 U.S.C. § 2244(b)(3)(A). Absent
16 authorization from the Court of Appeals, this Court lacks jurisdiction
17 over a successive petition. Burton v. Stewart, 549 U.S. 147, 152-153,
18 157 (2007); Cooper v. Calderon, 274 F.3d 1270, 1274 (9th Cir. 2001),
19 cert. denied, 538 U.S. 984 (2003).

20 Because petitioner has not obtained leave from the Court of
21 Appeals to file a successive petition, the petition for a writ of
22 habeas corpus is dismissed for lack of jurisdiction.

23 **It is so ordered.**

24
25 Dated: April 15, 2015

26 
27 Christina A. Snyder
28 United States District Judge